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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/854,256

05/11/2001

Anthony Robert Buckley

3-1-2

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7590

05/24/2004

AGERE SYSTEMS INC.  
FOUR CONNELL DRIVE  
BERKELEY HEIGHTS, NJ 07922-2747

EXAMINER

TRAN, TUAN A

ART UNIT

PAPER NUMBER

2682

DATE MAILED: 05/24/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/854,256

Applicant(s)

BUCKLEY ET AL.

Examiner

Tuan A Tran

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 3-7, 9 and 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al. (6,397,087).

Regarding claims 1 and 3-7, Kim discloses a mobile station for a mobile telecommunication system comprising a handset and a headset for connection to the handset (See fig. 7), the handset inherently including RF transceiver means for transmitting an outgoing call and receiving an incoming call, processor means coupled to the RF transceiver means for providing audio signals on a first audio path to audio

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transducer means in the handset and on a second audio path for audio transducer means in the headset, characterized in that: the handset and/or headset includes a switching means arranged such that operation thereof has the effect of initiating, accepting and terminating a call, and of routing audio signals to a selected one of the first and second audio paths (See figs. 5, 7-8 and col. 3 lines 3-55, col. 4 lines 34-49); wherein a first switching means (Talk Button) is located in the handset for initiating, accepting and/or terminating a call and a second switching means 720 having similar function is located in the headset, and wherein operation of the first switching means followed by operation of the second switching means, or vice versa, is effective to select the other of the selected one of the first and second audio paths (See figs. 5-8 and col. 5 line 53 to col. 7 line 13); and wherein a switching control means in the processor means responsive to operation of the first switching means, for operating respective further switching means in the first audio path and in the second audio path for selection thereof (See fig. 5 and col. 4 lines 34-50).

Claims 14 is rejected for the same reasons as set forth in claims 1 and 3-7.

Claims 15-18 are rejected for the same reasons as set forth in claims 1 and 3-7, as method.

Regarding claim 9, Kim discloses a mobile station for a mobile telecommunication system comprising a handset and a headset for connection to the handset (See fig. 7), the handset inherently including RF transceiver means for transmitting an outgoing call and receiving an incoming call, processor means coupled to the RF transceiver means for providing audio signals on a first audio path to audio

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transducer means in the handset and on a second audio path for audio transducer means in the headset, characterized by: means for detecting use of the headset or handset by the user and coupled to audio path control means for automatically enabling the respective first and second audio paths to the set in use (See figs. 5, 7-8 and col. 4 line 34 to col. 5 line 13, col. 5 line 53 to col. 7 line 13).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (6,397,087).

Regarding claim 2, Kim discloses as cited in claim 1. Kim further discloses the transducer means in the handset and the headset each comprises a microphone and a speaker (See fig. 5, 7 and col. 5 lines 33-52). However, Kim does not mention that the handset comprises a loudspeaker. Official Notice has been taken that the handset comprising the loudspeaker is very common in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use handset having a loudspeaker for the advantage of allowing the user to operate the handset in hands-free mode.

Claim 8 is rejected for the same reasons as set forth in claim 2.

3. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (6,397,087) in view of Van Schyndel (5,729,604).

Regarding claims 10-13, Kim discloses as cited in claim 9. However, Kim does not mention that the detecting means comprises a capacitance sensing means, or infrared sensing mean, or acoustic impedance sensing means located in the handset or the headband of the handset for detecting proximity of the user's head and use on the user's head. Schyndel discloses a portable wireless terminal for telephone system comprises an infrared proximity sensor for detecting the proximity of the user's head and use on the user's head (See figs. 1-2 and Abstract, col. 3 line 40 to col. 5 line 17). Since capacitance and acoustic impedance proximity sensors, Official Notice has been taken, are also well known in the art as well as the headband of the handset; therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Schyndel in modifying the handset as disclosed by Kim or the headband by adding to it infrared proximity sensor or capacitance proximity sensor or acoustic impedance proximity sensor for the advantage of automatically switching the handset between the loudspeaker mode and receiver mode (handset mode) depending on the location of the handset relative to the user's ear.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Takinami et al. (5,227,667) discloses microwave proximity switch.

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- Kawashima et al. (5,554,973) discloses electrostatic capacitance-type sensor.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(703) 605-4255**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vivian Chin**, can be reached at **(703) 308-6739**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

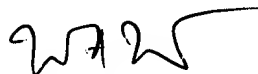
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

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Tuan Tran

AU2682



VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

5/17/04